

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

HB 2399 - SB 2611

March 4, 2016

SUMMARY OF BILL: Enhances statutory rape by an authority figure to a Class B felony and creates a Class C felony for statutory rape by an authority figure when the defendant is less than four years older than the victim.

ESTIMATED FISCAL IMPACT:

Increase State Expenditures – \$422,000/Incarceration*

Assumptions:

- Tennessee Code Annotated § 39-13-532 provides that unlawful sexual penetration of a victim by the defendant or of the defendant by the victim is a Class C felony when the victim is between the ages of 13 and 18, the defendant is at least four years older than the victim, and the defendant was in a position of trust or had supervisory or disciplinary power of the victim at the time of the offense.
- The bill enhances the current offense to a Class B felony, and the bill creates a Class C felony for statutory rape by an authority figure when the defendant is less than four years older than the victim.
- Statistics from the Department of Correction (DOC) show a 10-year average of 5.5 admissions per year for statutory rape by an authority figure.
- Statistics from the DOC show that the average time served for statutory rape by an authority figure is 3.1 years.
- It is assumed that offenders convicted under the new Class C felony offense for statutory rape by an authority figure will serve 3.1 years. It is assumed that the bill will result in one admission per year for Class C felony statutory rape by an authority figure.
- According to the DOC, the average operating cost per offender per day for calendar year 2016 is \$67.73.
- According to the U.S. Census Bureau, population growth in Tennessee has been 1.12 percent per year for the past 10 years, yielding a projected compound population growth of 11.78 percent over the next 10 years. Population growth will not affect the fiscal impact of this legislation.
- A recidivism discount does not apply to new offenses.
- The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on one offender serving an additional 3.1 years (1,132.28 days) for a total of \$76,689.32 (\$67.73 x 1,132.28 days).

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- The bill is estimated to result in 5.5 admissions per year being enhanced to Class B felonies.
- According to the U.S. Census Bureau, population growth in Tennessee has been 1.12 percent per year for the past 10 years, yielding a projected compound population growth of 11.78 percent over the next 10 years. Population growth will account for one (5.5 x .1178) additional admissions for a total of seven (5.5 + 1).
- The average time served for a Class B felony is 6.59 years. The bill will result in each affected offender serving an additional 3.49 years (6.59 – 3.1).
- According to the DOC, 49.2 percent of offenders will re-offend within three years of their release. A recidivism discount of 49.2 percent has been applied to this estimate to account for the impact of offenders who would re-offend under current law within the additional time added by this bill. It is assumed that the re-offender would have committed the subsequent offense at the same felony level as under current law (7 offenders x .492 = 3 offenders).
- The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on 4 offenders serving an additional 3.49 years (1,274.72 days) for a total of \$86,336.79 (\$67.73 x 1,274.72 days). The cost for four offenders is \$345,347.16 (\$86,336.79 x 4).
- The bill will result in a total recurring increase in state incarceration costs estimated to be \$422,036.48 (\$76,689.32 + \$345,347.16).
- The bill will result in approximately seven Class C felony cases being prosecuted as Class B felonies, but only creates one new felony case per year.
- It is assumed that the courts, district attorneys, and public defenders can handle the impact within their existing resources.
- The Administrative Office of the Courts and the District Attorneys General Conference confirm that they can handle the impact of the bill within existing resources.

**Tennessee Code Annotated § 9-4-210 requires an appropriation from recurring revenues for the estimated operation cost of any law enacted after July 1, 1986 that results in a net increase in periods of imprisonment in state facilities. The amount appropriated shall be based upon the highest cost of the next 10 years.*

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Krista M. Lee, Executive Director

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